

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GABRIEL C. RIOS,
Plaintiff,

v.

FORD MOTOR COMPANY,
Defendant.

Case No. 1:22-cv-01445-ADA-CDB

SCHEDULING ORDER (Fed. R. Civ. P. 16)

Discovery Deadlines:

- Initial Disclosures: March 6, 2023
- Amend by: April 12, 2023
- Expert Disclosures: October 25, 2023
- Fact Discovery Cut-Off: October 11, 2023
- Expert Discovery Cut-Off: December 8, 2023
- Mid-Discovery Status Conference: July 10, 2023,
at 9:30 a.m., in Bakersfield Federal Courthouse
510 19th Street, Bakersfield, CA 93301

Non-Dispositive Motion Deadlines:

- Filing: December 1, 2023
- Hearing: On or before January 5, 2024, at 10:30
a.m., in Bakersfield Federal Courthouse

Dispositive Motion Deadlines:

- Filing: January 19, 2024
- Hearing: March 4, 2024, at 1:30 p.m. in
Robert E. Coyle Federal Courthouse, Fresno,
Courtroom 1, 8th Floor

Pre-Trial Conference: August 19, 2024, at 1:30

p.m., in Fresno Federal Courthouse, Courtroom 1,
8th Floor

Trial: October 15, 2024, at 8:30 a.m. in Fresno
Federal

Courthouse, Courtroom 1, 8th Floor

1
2 In this action filed October 13, 2022 and removed to the Eastern District of California on
3 November 9, 2022, Plaintiff Gabriel Rios (“Plaintiff”) asserts claims against Ford Motor Company
4 (“Defendant”) for: (1) Violation of the Song-Beverly Act-Breach of Express Warranty; (2) Violation
5 of the Song-Beverly Act-Breach of Implied Warranty; (3) Violation of the Song-Beverly Act Section
6 1793.2(b).

7 **I. Date of Scheduling Conference**

8 February 6, 2023, before Magistrate Judge Christopher D. Baker.

9 **II. Appearances of Counsel**

10 Allen Amarkarian appeared on behalf of Plaintiff.

11 Matthew Proudfoot appeared on behalf of Defendant.

12 **III. Magistrate Judge Consent:**

13 Currently the parties do not mutually consent to magistrate judge jurisdiction; however, at
14 least party has failed to file a completed consent/decline form. *See* Doc. 2-1.

15 **Notice of Congested Docket and Court Policy of Trailing**

16 Due to the District Judges’ heavy caseload, the adopted policy of the Fresno Division of the
17 Eastern District is to trail all civil cases. The parties are hereby notified that for a trial date set before a
18 District Judge, the parties will trail indefinitely behind any higher priority criminal or older civil case
19 set on the same date until a courtroom becomes available. The trial date will not be reset.

20 The Magistrate Judges’ availability is far more realistic and accommodating to parties than that
21 of the U.S. District Judges who carry the heaviest caseloads in the nation and who must prioritize
22 criminal and older civil cases over more recently filed civil cases. A United States Magistrate Judge
23 may conduct trials, including entry of final judgment, pursuant to 28 U.S.C. § 636(c), Federal Rule of
24 Civil Procedure 73, and Local Rule 305. Any appeal from a judgment entered by a United States
25 Magistrate Judge is taken directly to the United States Court of Appeal for the Ninth Circuit.

26 The Fresno Division of the Eastern District of California, whenever possible, is utilizing United
27 States Article III District Court Judges from throughout the nation as Visiting Judges. Pursuant to the
28 Local Rules, Appendix A, such reassignments will be random, and the parties will receive no advance

1 notice before their case is reassigned to an Article III District Court Judge from outside of the Eastern
2 District of California.

3 Therefore, the parties are directed to consider consenting to Magistrate Judge jurisdiction to
4 conduct all further proceedings, including trial, and to file a consent/decline form (provided by the
5 Court at the inception of this case) indicating whether they will consent to the jurisdiction of the
6 Magistrate Judge.

7 **IV. Pleading Amendment Deadline**

8 Any requested pleading amendments are ordered to be filed, either through a stipulation or
9 motion to amend no later than **April 12, 2023**. The parties are advised that filing motions and/or
10 stipulations requesting leave to amend the pleadings does not reflect on the propriety of the amendment
11 or imply good cause to modify the existing schedule, if necessary. All proposed amendments must (A)
12 be supported by good cause pursuant to Fed. R. Civ. P. 16(b) if the amendment requires any
13 modification to the existing schedule, *see Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609
14 (9th Cir. 1992), and (B) establish, under Fed. R. Civ. P. 15(a), that such an amendment is not (1)
15 prejudicial to the opposing party, (2) the product of undue delay, (3) proposed in bad faith, or (4) futile,
16 *see Foman v. Davis*, 371 U.S. 178, 182 (1962).

17 **III. Discovery Plan and Cut-Off Date**

18 The parties are ordered to exchange the initial disclosures required by Fed. R. Civ. P. 26(a)(1)
19 on or before **March 6, 2023**.

20 The parties are ordered to complete all discovery pertaining to non-experts on or before
21 **October 11, 2023**, and all discovery pertaining to experts on or before **December 8, 2023**.

22 The parties are directed to disclose all expert witnesses¹, in writing, on or before **October 25,**
23 **2023**, and to disclose all rebuttal experts on or before **November 9, 2023**. The written designation of
24 retained and non-retained experts shall be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A), (B), and
25 (C) and shall include all information required thereunder. Failure to designate experts in compliance
26

27
28 ¹ In the event an expert will offer opinions related to an independent medical or mental health
evaluation, the examination SHALL occur sufficiently in advance of the disclosure deadline so the expert's
report fully details the expert's opinions in this regard.

1 with this order may result in the Court excluding the testimony or other evidence offered through such
2 experts that are not disclosed pursuant to this order.

3 The provisions of Fed. R. Civ. P. 26(b)(4) and (5) shall apply to all discovery relating to experts
4 and their opinions. Experts must be fully prepared to be examined on all subjects and opinions
5 included in the designation. Failure to comply will result in the imposition of sanctions, which may
6 include striking the expert designation and preclusion of expert testimony.

7 The provisions of Fed. R. Civ. P. 26(e) regarding a party's duty to timely supplement
8 disclosures and responses to discovery requests will be strictly enforced.

9 A mid-discovery status conference is scheduled for **July 10, 2023**, at 9:30 a.m. before
10 Magistrate Judge Christopher D. Baker. Counsel SHALL file a joint mid-discovery status conference
11 report no later than one week before the conference. Counsel also SHALL lodge the joint status report
12 via e-mail to CDBorders@caed.uscourts.gov. The joint status report SHALL outline the discovery
13 counsel have completed and that which needs to be completed as well as any impediments to
14 completing the discovery within the deadlines set forth in this order. Counsel SHALL discuss
15 settlement and certify in the joint status report (1) that they have met/conferred regarding settlement,
16 and (2) proposed dates for convening a settlement conference before a U.S. magistrate judge.

17 **IV. Pre-Trial Motion Schedule**

18 All non-dispositive pre-trial motions, including any discovery motions, shall be filed no later
19 than **December 1, 2023**² and heard on or before **January 5, 2024**. Discovery motions shall be set
20 before Magistrate Judge Baker. For these hearings and at the direction of the Courtroom Deputy Clerk,
21 the Court may permit counsel to appear remotely (via Zoom) or via teleconference [(877) 402-9757,
22 Access Code 6966236] provided the Courtroom Deputy Clerk receives a written notice of the intent to
23 appear telephonically no later than five court days before the noticed hearing date. All other non-
24 dispositive hearings SHALL be set before Judge de Alba.

25 No motion to amend or stipulation to amend the case schedule will be entertained unless it is
26

27
28 ² Non-dispositive motions related to non-expert discovery SHALL be filed within a reasonable time of
discovery of the dispute, but in no event later than 30 days after the expiration of the non-expert discovery
deadline.

1 filed at least one week before the first deadline the parties wish to extend. Likewise, no written
2 discovery motions shall be filed without the prior approval Magistrate Judge Baker. A party with a
3 discovery dispute must first confer with the opposing party in a good faith effort to resolve by
4 agreement the issues in dispute. If that good faith effort is unsuccessful, the moving party promptly
5 shall seek a telephonic hearing with all involved parties and Magistrate Judge Baker. To schedule this
6 telephonic hearing, the parties are ordered to contact the Courtroom Deputy Clerk, Susan Hall, at (661)
7 326-6620 or via email at SHall@caed.uscourts.gov. At least three days before the conference, counsel
8 SHALL file informal letter briefs detailing their positions. The briefs may not exceed 7 pages,
9 excluding exhibits. Counsel must comply with Local Rule 251 with respect to discovery disputes or
10 the motion will be denied without prejudice and dropped from the Court's calendar.

11 All dispositive pre-trial motions shall be filed no later than **January 19, 2024**, and heard no
12 later than **March 4, 2024**, in Courtroom 1 at 1:30 p.m. before the Honorable Ana de Alba, United
13 States District Judge. In scheduling such motions, counsel shall comply with Fed. R. Civ. P. 56 and
14 Local Rules 230 and 260.

15 **V. Motions for Summary Judgment or Summary Adjudication**

16 At least 21 days before filing a motion for summary judgment or motion for summary
17 adjudication, the parties are ORDERED to meet, in person or by telephone, to confer about the issues to
18 be raised in the motion.

19 The purpose of the meeting shall be to: 1) avoid filing motions for summary judgment where a
20 question of fact exists; 2) determine whether the respondent agrees that the motion has merit in whole
21 or in part; 3) discuss whether issues can be resolved without the necessity of briefing; 4) narrow the
22 issues for review by the court; 5) explore the possibility of settlement before the parties incur the
23 expense of briefing a motion; and 6) to develop a joint statement of undisputed facts.

24 The moving party SHALL initiate the meeting and SHALL provide a complete, proposed
25 statement of undisputed facts at least five days before the conference. The finalized joint statement of
26 undisputed facts SHALL include all facts that the parties agree, for purposes of the motion, may be
27 deemed true. In addition to the requirements of Local Rule 260, the moving party shall file the joint
28 statement of undisputed facts.

1 In the notice of motion, the moving party SHALL certify that the parties have met and
2 conferred as ordered above or set forth a statement of good cause for the failure to meet and confer.
3 Failure to comply may result in the motion being stricken.

4 **VI. Pre-Trial Conference Date**

5 **August 19, 2024**, at 1:30 p.m. in Courtroom 1 before the Honorable Ana de Alba, United States
6 District Judge.

7 The parties are ordered to file a Joint Pretrial Statement pursuant to Local Rule 281(a)(2). The
8 parties are further directed to submit a digital copy of their pretrial statement in Word format, directly
9 to Judge de Alba's chambers, by email at ADAorders@caed.uscourts.gov.

10 Counsels' attention is directed to Rules 281 and 282 of the Local Rules of Practice for the
11 Eastern District of California, as to the obligations of counsel in preparing for the pre-trial conference.
12 The Court will insist upon strict compliance with those rules. In addition to the matters set forth in the
13 Local Rules the Joint Pretrial Statement shall include a Joint Statement of the case to be used by the
14 Court to explain the nature of the case to the jury during voir dire.

15 **VII. Trial Date**

16 **October 15, 2024**, at 8:30 a.m. in Courtroom 1 before the Honorable Ana de Alba, United
17 States District Judge.

18 A. This is a jury trial.

19 B. Counsels' Estimate of Trial Time: 5-7 days

20 C. Counsels' attention is directed to Local Rules of Practice for the Eastern District of
21 California, Rule 285.

22 **VIII. Settlement Conference**

23 The parties are advised that Judge de Alba requires that a mandatory settlement conference be
24 conducted prior to trial by a federal judge. Where the parties filed a summary judgment/adjudication
25 motion, a settlement conference shall be scheduled 30 days after the motion is fully briefed. In cases
26 where the parties do not file a summary judgment/adjudication motions, a settlement conference shall
27 be scheduled 30 days after the last day for the filing of dispositive motions. Unless otherwise requested
28 by the parties, the Settlement Conference will be set before Magistrate Judge Baker.

1 **IX. Request for Bifurcation, Appointment of Special Master, or other**
2 **Techniques to Shorten Trial**

3 Not applicable at this time.

4 **X. Related Matters Pending**

5 There are no pending related matters.

6 **XI. Compliance with Federal Procedure**

7 All counsel are expected to familiarize themselves with the Federal Rules of Civil Procedure
8 and the Local Rules of Practice of the Eastern District of California, and to keep abreast of any
9 amendments thereto. The Court must insist upon compliance with these Rules if it is to efficiently
10 handle its increasing case load and sanctions will be imposed for failure to follow both the Federal
11 Rules of Civil Procedure and the Local Rules of Practice for the Eastern District of California.

12 **XII. Effect of this Order**

13 The foregoing order represents the best estimate of the court and counsel as to the agenda most
14 suitable to dispose of this case. The trial date reserved is specifically reserved for this case. If the
15 parties determine at any time that the schedule outlined in this order cannot be met, counsel are ordered
16 to notify the court immediately of that fact so that adjustments may be made, either by stipulation or by
17 subsequent status conference.

18 The dates set in this Order are considered to be firm and will not be modified absent a showing
19 of good cause even if the request to modify is made by stipulation. Stipulations extending the deadlines
20 contained herein will not be considered unless they are accompanied by affidavits or declarations, and
21 where appropriate attached exhibits, which establish good cause for granting the relief requested.

22 Failure to comply with this order may result in the imposition of sanctions.

23 IT IS SO ORDERED.

24 Dated: **February 7, 2023**

25 
UNITED STATES MAGISTRATE JUDGE